

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

JUL 01 2010

ANTHONY BRANCH,)
)
Petitioner,)
)
vs.)
)
STATE OF OKLAHOMA,)
)
Respondent.)

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY Tuh DEPUTY

No. CIV-10-54-W

ORDER

On May 14, 2010, United States Magistrate Judge Robert E. Bacharach issued a Report and Recommendation and made various recommendations with regard to this matter. Petitioner Anthony Branch, who is seeking habeas relief under title 28, section 2254 of the United States Code, and respondent State of Oklahoma ("State") were advised of their right to object to the Report and Recommendation. Neither Branch nor the State has filed an objection within the allotted time; Branch has instead filed a Notification of Post-Conviction Filing. See Doc. 18.

Based upon record, the Court concurs with Magistrate Judge Bacharach's suggested recommendations. Accordingly, the Court

- (1) ADOPTS the Report and Recommendation [Doc. 17] filed on May 14, 2010;
- (2) GRANTS the Motion to Dismiss [Doc. 13] filed on March 23, 2010, by the State to the sole and limited extent that the State is not a proper party to this action and hereby DISMISSES the State from this proceeding;
- (3) DENIES the State's Motion to Dismiss as to all other arguments raised therein;
- (4) SUBSTITUTES as party respondent Bruce Howard, Warden, who serves as

warden at Howard McLeod Correctional Center, the facility in which Branch is incarcerated;

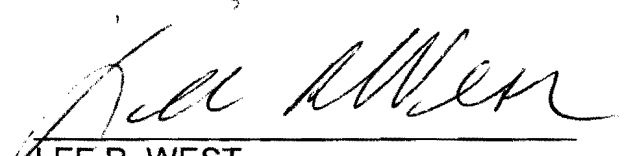
(5) DIRECTS the Clerk of the Court to change his records to reflect Bruce Howard, Warden, as the respondent in this matter;

(6) in light of the unexhausted claims in Branch's Petition for Writ of Habeas Corpus ("Petition"), STAYS this matter to give Branch the opportunity to exhaust in state court all claims raised in his Petition;¹

(7) DIRECTS the Clerk of the Court to administratively terminate this matter in his records while the stay is in effect; and

(8) DIRECTS Branch to notify the Court in writing within fourteen (14) days of the date the Oklahoma Court of Criminal Appeals enters a final disposition in the state court proceedings if Branch is unable to obtain relief in the state courts.

ENTERED this 1st day of July, 2010.


LEE R. WEST
UNITED STATES DISTRICT JUDGE

¹Magistrate Judge Bacharach has also recommended that Branch demonstrate within a certain period of time that he has initiated post-conviction proceedings in the District Court for Garfield County, Oklahoma. Because Branch has done so, see Doc. 18, the Court deems MOOT Magistrate Judge Bacharach's recommendation.